

***United States Court of Appeals
for the Second Circuit***



JOINT APPENDIX

76-7133

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

BARBARA NOBLE,

Plaintiff-Appellant

-vs-

THE UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL,

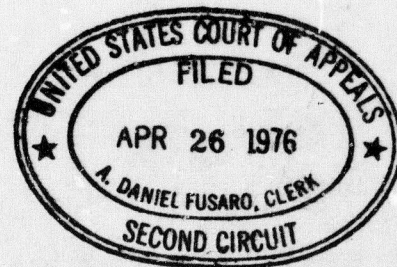
Defendants-Appellees

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE WESTERN
DISTRICT OF NEW YORK

JOINT APPENDIX

Emmelyn Logan-Baldwin
510 Powers Building
Rochester, New York 14614
Attorney for Plaintiff-Appellant

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, New York 14603
Attorneys for Defendants-Appellees



PAGINATION AS IN ORIGINAL COPY

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209	1	75	0516	11	21	75	3	442	1			100	0902		75	0516

PLAINTIFFS

NOBLE, Barbara

DEFENDANTS

UNIVERSITY OF ROCHESTER
STRONG MEMORIAL HOSPITAL

CAUSE 42 U.S.C. §2000(e)5(f) and 29 U.S.C. 206(d). Pltf. is suing to secure the protection of and to redress deprivation of rights to equal employment opportunities.

pah

ATTORNEYS

Emmelyn Logan-Baldwin, Atty.
510 Powers Building
Rochester, New York 14614
232-2292

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, New y ork 14603

☐ CHECK
HERE
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DATE	RECEIPT NUMBER	C.D. NUMBER

STATISTICAL CARDS

CARD	DATE MAILED
JS-5	
JS-6	

DATE 1975	NR.	PROCEEDINGS	
Nov. 21	1	Filed complaint.	
21		Issued summons and 2 copies.	
21	2	Filed Pltfs. First Notice to Produce	
21		JS 5 made	
Dec. 1	3	Filed Mar. ret. on S&C & Notice to Produce served on University of Rochester & Strong Memorial Hospital on 11-24-75	
16	"	Defts. notice of motion & motion to dismiss Cts. 1 & 2 of the complaint etc. ret. 1-12-76	
24 1976	"	Defts. response to notice to produce.	
Jan. 12		Filed Pltf's. affirmation, notice of cross-motion & motion to compel discovery; opposition to Defts'. motion to dismiss-ret. at Roch. 1-12-76.	
12		Motion by Defts. to dismiss, etc. Cross-motion by Pltf. to compel discovery, etc. To be submitted 2 wks from today.	
Mar. 2		Filed Decision & Order dismissing the action-Burke, DJ Notice & copies to Emmelyn Logan-Baldwin and Nixon, Hargrave, Devans & Doyle	F-1
2		Filed judgment dismissing the action-Clerk Notice & copies to Emmelyn Logan-Baldwin and Nixon, Hargrave, Devans & Doyle	F-17
2		JS 6 made	
15		Filed Pltf's. Notice of Appeal (copy mailed to Nixon, Hargrave, Devans & Doyle and to Clerk, CCA with copy of docket entries; CCA's Forms C and D mailed to Ms. Logan-Baldwin)	
Apr. 6		Original papers, docket entries and Clerk's certificate mailed to Clerk, CCA	

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BARBARA NOBLE
130 Castlebar Road
Rochester, New York 14610

Plaintiff

-v-

UNIVERSITY OF ROCHESTER
River Campus
Rochester, New York 14627

and

STRONG MEMORIAL HOSPITAL
260 Crittenden Boulevard
Rochester, New York 14620

Defendants

COMPLAINT

JURISDICTION

1. Jurisdiction of this court is invoked pursuant to 28 U.S.C. Sections 1343, 2201, 2202, 29 U.S.C. Sections 215, 216, and 42 U.S.C. Section 2000(e)5(f). This suit arises under Title VII of the Act of Congress known as the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. Section 2000(e) et seq., and the Fair Labor Standards Act, Equal Pay Act, 29 U.S.C. Sections 206(d), 215 and 216. The jurisdiction of this Court is invoked to secure protection of and to redress deprivation of rights to equal employment opportunities.

Plaintiff is a certified cardiac perfusionist, and has been since June of 1973, and has worked at Strong Memorial Hospital with the "pump team" operating the heart-lung machine for open-heart surgery since June 1969.

4. Upon information and belief, defendant University of Rochester is a private education corporation engaged in the business of higher education. It is organized and exists under the laws of the State of New York. Upon information and belief, defendant Strong Memorial Hospital is a division of the University of Rochester. The defendants are employers within the meaning of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972...

STATEMENT OF THE CASE

5. This is a proceeding for declaratory judgment as to the rights of the plaintiff; for damages, back wages, training, promotion and employee benefits arising out of the illegal acts of defendants in denying plaintiff equal employment opportunities, benefits and privileges solely on the basis of sex. Plaintiff seeks injunctive relief restraining the defendants from maintaining a practice, policy, custom or usage of:

(a) Discriminating against plaintiff Noble and other female employees because of sex, with respect to compensation, terms, conditions and privileges of employment; and

(b) Limiting, segregating and classifying employees of defendants in ways which deprive the plaintiff and other female employees of employment opportunities and otherwise adversely affect their status as employees because of their sex.

6. The defendants have consistently and purposefully limited and deprived their women employees, including plaintiff herein, of their rights guaranteed to them under the United States Constitution, federal law and New York State law, with the intent and design, both directly and indirectly, of fostering and protecting, the advantage and advancement of white male employees, to the detriment of the female employees.

COUNT I

7. The defendants maintain a policy of discriminating against their women employees, including plaintiff herein, by virtually excluding them from certain job classifications, including but not limited to Chief Perfusionist. Job classification determines the rate of pay an employee receives as well as professional status and benefits. Women employees, including plaintiff herein, are classified in lower job classifications and receive lower rates of pay than male employees who perform the same or similar duties or responsibilities and who possess the same or lesser professional training and competence.

8. The defendants discriminate against plaintiff and other persons similarly situated by maintaining a policy, practice, custom and usage of paying women employees less than their male counterparts when the education, skill and professional competence of the women employees equals or exceeds the education, skill and competence of the male employees engaged in the same or similar work.

9. The defendants maintain a policy, practice and usage of recruitment for employment which is directed to seeking and hiring only males for the best-paying, career-oriented jobs such as Chief Perfusionist, while seeking and hiring women, including plaintiff herein, for lower paying jobs with little or no career and advancement prospects.

10. The defendants maintain a policy, practice and usage of excluding women, including plaintiff herein, from training programs to which men with the equivalent or less education and skills are enrolled either at the commencement of their employment or during certain stages of their employment.

11. The defendants discriminate against the plaintiff and other women employees by maintaining a policy, practice, custom and usage of promotion in employment which is directed to seeking and promoting only males for the best paying, career-oriented jobs such as Chief Perfusionist, when the education, skill and professional competence of women employees equals or exceeds the education, skill and competence of the male employees promoted.

12. The defendants discriminate against the plaintiff and other women employees by maintaining a policy, practice, custom and usage of fostering an atmosphere in the employment situation which is calculated to harass, embarrass, humiliate, and thereby cause the woman employee to "keep her place."

13. Plaintiff was hired by defendants University of Rochester and Strong Memorial Hospital in January of 1969, as a registered nurse in the operating room. Plaintiff was classified as a non-exempt staff nurse at a starting salary of approximately \$8000.00 per annum.

14. In June of 1969, plaintiff began work with the "pump team" which is responsible for the operation of the heart-lung machinery for open-heart surgery. From June 1969 until January of 1970, plaintiff and one other person operated the heart-lung machine. From January 1970 until April, 1972, plaintiff and two other persons worked together until the third person resigned.

15. From April of 1972 until March, 1973, plaintiff and one other person worked together on the "pump team" until the other person died in March 1973.

16. From March, 1973 until December, 1973, plaintiff operated the heart-lung machine alone with only marginal assistance from persons she was training, took care of all the cases, took care of all the equipment, stayed late to assist with research that needed the use of the heart-lung machine, tested out a new membrane oxygenator so that it could be used in the operating room, used that machine in the first cases in Rochester, which were some of the first cases in the country, and trained new employees to operate the equipment.

17. Upon information and belief, sometime during the aforementioned periods, March 1973 to December 1973, Aaron Hill, who was employed in the cardiology research laboratory at the University of Rochester, Strong Memorial Hospital, approached Dr. Earl Mahoney, Professor of Surgery at the University of Rochester, Strong Memorial Hospital, and agent and/or employee of defendants in charge of cardiac surgery. Upon information and belief, Mr. Hill discussed with Dr. Mahoney the possibility of his joining the "pump team". Upon information and belief,

as a result of this meeting, Dr. Mahoney created a new title for the work plaintiff performed, Chief Perfusionist; at that time, Dr. Mahoney promised the title and position to Aaron Hill, solely because of his belief that a man should have the title and responsibilities and because of the customs, practices and usages of the defendants to discriminate in employment because of sex.

18. Plaintiff and other persons similarly situated were not informed that a job opening for Chief Perfusionist existed nor were they aware that such a position existed.

19. Upon information and belief, Aaron Hill has training in chemistry and in electronics; however, since Aaron Hill was not qualified to operate the heart-lung machine, Dr. Mahoney, as agent and/or employee of defendants sent Aaron Hill to Cleveland Clinic and to Houston, Texas to learn how to operate the machine, all at the expense of the defendants.

20. Plaintiff had, on enumerable occasions over the course of her employment with defendants, asked Dr. Mahoney as agent and/or employee of defendants, whether she could visit other institutions which had similar equipment to that at Strong Memorial Hospital. Plaintiff was informed that she could learn all that was necessary at Strong Memorial Hospital.

21. After Aaron Hill completed this training in Cleveland, Ohio and in Houston, Texas, he returned to the "pump team" and was appointed by defendants as Chief Perfusionist. Upon information and belief, Aaron Hill was not qualified to take the examination to be a certified cardiac perfusionist until July 1975.

22. After Aaron Hill came to the "pump team," plaintiff instructed him in the procedures, service and equipment of the "pump team," continued the education and training responsibility for new trainees, and continued her same duties as before. In effect, plaintiff carried out the same duties which Aaron Hill had but without pay, title, status and benefits of Chief Perfusionist.

23. Upon information and belief, Aaron Hill is being considered for faculty appointment; he receives a salary of approximately \$14,000.00-14,560.00 per annum. He is less qualified for, and has less experience at, the position which plaintiff holds and performs without such title, salary, benefits and status.

24. Plaintiff, at the time December, 1973, already had about four years experience with the above-mentioned machinery, was a certified cardiac perfusionist and had been so certified since June 1973 when she qualified to take the examination to be a certified perfusionist, had run the service alone for a period from March, 1973 to December, 1973, had begun to train two other nurses, and had written an article which was later published in the American Journal of Nursing in May, 1974. Plaintiff is presently classified as a Nurse Perfusionist and paid a salary of approximately \$13,000.00 per annum.

25. Since the appointment of Aaron Hill as Chief Perfusionist, plaintiff has continued to work on the "pump team." However, although she is better qualified and has more background and experience than Aaron Hill, she is expected to work under the direction of Aaron Hill.

26. Plaintiff's work and performance has always been of the highest quality. To the best of plaintiff's knowledge, her

work has always been completely satisfactory to defendants. Plaintiff worked long hours in order to provide "pump team" service both to the operating room and to various research activities. In some instances, she went into work at 5:00 a.m. in order to be sure that everything would be adequate, safe and properly prepared for the patient. Plaintiff should have the title, status, position, pay and benefits of the Chief Perfusionist at the University of Rochester, Strong Memorial Hospital. But for the aforementioned discriminatory acts, customs, practices and policies of the defendants, plaintiff would be the Chief Perfusionist.

27. The actions of the defendants deprive the plaintiff and other persons similarly situated of equal employment opportunities by limiting, segregating and classifying plaintiff and other persons similarly situated so as to deprive them of equal employment opportunities and to refuse to grant them equal terms, privileges and conditions of employment in violation of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. Section 2000(e) et seq.

28. The effect, purpose and intent of the aforementioned policies and practices pursued by the defendants, have been, and continue to be, to limit, segregate, classify and discriminate against plaintiff and other female employees, in ways which jeopardize the employment opportunities of female workers and otherwise adversely affect their status as employees.

29. Plaintiff and other persons similarly situated have no plain, adequate or complete remedy at law to redress the wrongs alleged herein. This suit for preliminary and permanent injunction is the only means of securing adequate relief. The plaintiff and other persons similarly situated are now suffering and will continue to suffer irreparable injuries from the defendants' policies, practices, customs and usages set forth herein.

30. All the practices herein alleged are continuing to the present time despite efforts of the plaintiff in complaining to the New York State Division of Human Rights and the Equal Employment Opportunity Commission.

31. By reason of the foregoing unlawful and discriminatory actions of the defendants, plaintiff has suffered mental anguish, embarrassment, pain and suffering, humiliation and damages.

COUNT II

32. Plaintiff realleges and incorporates herein all of the aforementioned allegations as though they were fully set forth.

33. The actions of the defendants to deprive the plaintiff and other persons similarly situated of equal employment benefits and wages by paying plaintiff and other persons similarly situated less wages and benefits than defendants pay to male employees who perform equal work and which jobs require equal skill, effort, responsibility and which are performed under similar working conditions, is in derogation of rights secured to the plaintiff and other persons similarly situated by Acts of Congress, including without limitation 29 U.S.C. §206(d).

34. As a direct consequence of the illegal acts of the defendants, plaintiff and persons similarly situated have suffered and continue to suffer damages and loss of equal pay and benefits for equal work. Defendants knew or should have known that the Equal Pay Act affected their employees, including plaintiff herein; and the total disregard for the provisions of the Equal Pay Act by defendants constitutes a willful violation of that act.

35. All of the practices herein alleged are continuing up to the present time.

36. By reason of the foregoing unlawful and discriminatory acts of the defendants, plaintiff has suffered mental anguish, embarrassment, pain, suffering, humiliation, loss of wages and benefits and damages.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff respectfully prays that this court advance this case on the docket, order a speedy hearing at the earliest possible date, cause this case to be in every way expedited and upon such hearing:

(1) Declare that defendants have discriminated and continue to discriminate against the plaintiff on the basis of sex and in violation of federal statutory and constitutional law.

(2) Grant the plaintiff a preliminary and permanent injunction enjoining the defendants, their agents, successors, employees, attorneys and those acting in concert with them and at their direction from continuing or maintaining any policy, practice, usage or custom of denying, abridging, withholding, conditioning, limiting or otherwise interfering with the

rights of the plaintiff and their women employees to enjoy equal employment opportunities as secured by Title VII of the Civil Rights Act of 1964, as amended and the Fair Labor Standards Act, Equal Pay Act, 29 U.S.C. Sections 206(d), 215 and 216.

(3) Establish a mechanism for the enforcement of the injunction by requiring the defendants to present to the court within thirty (30) days of the issuance of the injunction, a plan showing precisely and in detail how they will comply with the court's order that they refrain from continuing their policies, practices, customs and usages of discrimination against the plaintiff and their women employees on account of their sex, as to compensation, terms, conditions and privileges of employment; and pursuant thereto that the court order the plaintiff and every woman employee similarly situated to be paid wages or salary equivalent to that which she would have been receiving had she been male.

(4) Grant the plaintiff a preliminary and permanent injunction enjoining the defendants, their agents, successors, employees, attorneys and those acting in concert with them and at their direction from conditioning, limiting and depriving plaintiff Noble of opportunities for promotion because of sex.

(5) Direct that plaintiff Noble be promoted to her rightful position of Chief Perfusionist, and granted all the seniority, status, salary and benefits accruing to such position.

(6) Award plaintiff Noble back-pay, benefits, and seniority status to which she would have been entitled, absent the illegal acts of the defendants alleged herein. The

difference between the wages and benefits she actually earned and the wages and benefits she would have earned should be computed from the latter of her date of employment by the defendants or the day on which the Civil Rights Act of 1964, or Equal Pay Act took effect.

(7) Direct that defendants make available to plaintiff the equivalent of money, time and opportunity as was made available to Aaron Hill, for plaintiff to supplement her education, skills and training in her profession.

(8) Grant plaintiff a preliminary and permanent injunction enjoining defendants, their agents, successors, employees, attorneys and those acting in concert with them and at their direction from retaliating against plaintiff or other women employees because of plaintiff's complaint of sex discrimination.

(9) Direct that defendants publish verbatim the findings and decisions herein on all of defendants' bulletin boards and in all internal and external publications.

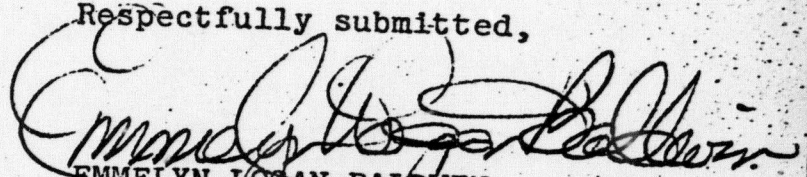
(10) Award the plaintiff compensatory damages of \$ 100,000.00

(11) Allow the plaintiff the costs of the action herein, including reasonable attorney's fees.

(12) Award plaintiff damages by way of example against defendants in an amount commensurate with the wrong and the defendants' ability to pay.

(13) Grant such other and further relief as may appear to this court just and proper.

Respectfully submitted,



EMMELYN LOGAN-BALDWIN
Attorney for Plaintiff
510 Powers Building
Rochester, New York 14614
Telephone: 716/232-2292

Rochester, New York
November 19, 1975

EXHIBIT A



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

1 WEST GENESEE STREET
BUFFALO, NEW YORK 14202
(716) 842 - 5170

Re:

NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

In Case No. TBU5-0324 before the Equal Employment Opportunity
Commission, United States Government.

Barbara Noble

v.

University of Rochester and Strong Memorial Hospital

YOU ARE HEREBY NOTIFIED THAT:

WHEREAS, this Commission has not filed a civil action with
respect to your charge as provided by section 706(f)(1) of
Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.
2000a et seq; and,

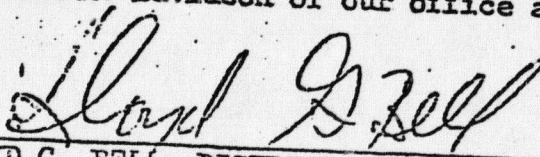
WHEREAS, this Commission has not entered into a conciliation
agreement to which you are a party;

THEREFORE, pursuant to s706(F) of Title VII, you may within
90 days of your receipt of this Notice, institute a civil action
in the United States District Court having jurisdiction over your
case.

Should you decide to commence judicial action, you must do so
within 90 days of the receipt of this letter or you will lose
your right to sue under Title VII.

If you are not represented by counsel and you are unable to obtain
counsel, the Court may in its discretion, appoint an attorney to
represent you.

Should you have any questions concerning your legal rights or have
any difficulty in filing your case in court, please contact Mr.
Kenneth M. Davidson of our office at (716) 842-5170.


LLOYD G. BELL, DISTRICT DIRECTOR

DATE

9/30/75

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BARBARA NOBLE
130 Castlebar Road
Rochester, New York 14610

Plaintiff

-v-

UNIVERSITY OF ROCHESTER
River Campus
Rochester, New York 14627

and

STRONG MEMORIAL HOSPITAL
260 Crittenden Boulevard
Rochester, New York 14620

Defendants

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FIRST NOTICE TO
PRODUCE

FRCP 34
Civil Action No.

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, plaintiff requests that you produce and permit plaintiff, by her attorney, to inspect and copy, at the offices of her attorney, Emmelyn Logan-Baldwin, 510 Powers Building, Rochester, New York, from 10:00 a.m. to 12:00 noon and from 2:00 p.m. to 5:00 p.m. on January 9 and 12, 1976 the following:

1. All writings of any nature whatsoever in the possession of the University of Rochester and Strong Memorial Hospital, including, without intending to limit, all writings of

any nature whatsoever transferred to them by Dr. Earl Mahoney, and relating directly or indirectly, to the recruiting, training and promotion of Aaron Hill to the job of Chief Perfusionist at Strong Memorial Hospital or relating, directly or indirectly, to the employment of Barbara Noble at Strong Memorial Hospital, or relating, directly or indirectly, to the status, classification, pay or conditions of employment of Aaron Hill or Barbara Noble at Strong Memorial Hospital and any document of like nature or description.

2. Entire personnel file of Barbara Noble.

3. Entire personnel file of Aaron Hill.

4. All writings of any nature whatsoever reflecting the rate of pay, basis of pay, including without intending to limit, any increases and/or revisions in the pay of Barbara Noble, from the date of her employment with the defendants to date and any other document of like nature or description.

5. Job descriptions for all persons employed in the area of cardiac surgery at Strong Memorial Hospital, from 1965 to date and any other like document of any nature or description whatsoever.

6. Document and/or documents showing the name, age, sex, classification, training, pay, advancement experience of all persons employed at Strong Memorial Hospital, from 1965 to date.

7. The pay scales, salary ranges, salary grades and/or any other document of like nature or description for positions at Strong Memorial Hospital, 1965 to date.

8. All affirmative action plans and/or programs of the defendants including any amendments or supplements thereto, from 1965 to date.

9. All writings of any nature whatsoever which interpret, revise or supplement each of the affirmative action plans of the defendants from 1965 to date.

10. All writings of any nature whatsoever, which commenced formally or informally, upon the effects, ramifications and projected results of the affirmative action plans of the University of Rochester from 1965 to date.

11. All writings of any nature whatsoever constituting compliance reviews or audits or findings or recommendations of compliance reviews or audits of employment practices of the defendants, whether those reviews be described as regular, special, or pre-award, conducted by any government agency, including, without intending to limit, Department of Health, Education and Welfare, The Atomic Energy Commission, The Defense Department or any contract auditing agency, the Bureau of Budget, the National Institute of Health, The United States Office of Education, and the State of New York, and including, without intending to limit, all writings furnished to a government agency or writings from a government agency in connection with compliance reviews and/or audits, including, without limitation, the following reviews and/or audits: Approximately August 1974-October 1974; approximately June 1974; approximately winter of 1971 and 1972; approximately spring-summer 1971, from 1965 to date. Writings requested include,

without limitation, memos, letters, analyses, statistical analyses and compilations prepared in connection with the compliance review and/or audit, whether or not furnished to the governmental agency.


12. All writings of any nature whatsoever which comment formally or informally, officially or unofficially, on the areas or points of compliance or non-compliance relating to the affirmative action plans of the defendants from 1965 to date.

13. All writings, including without intending to limit, all EEO-1 or EEO-100 forms, of any nature whatsoever (a) requested by and (b) supplied to any United States Government agency, including, without intending to limit, the Department of Health, Education and Welfare, the Atomic Energy Commission, the Defense Department or any contract auditing agency, the Bureau of Budget, the National Institute of Health, the United States Office of Education, the Equal Employment Opportunity Commission, from 1965 to date.

14. All writings of any nature whatsoever, including without intending to limit, informal and unofficial comments or recommendations of members of investigating teams of any federal government agency relating in any way to the organization, structure or content of the affirmative action plans of the defendants or to the employment practices of the defendants, from 1965 to date.

15. All correspondence of any nature whatsoever between any federal government agency and the defendants concerning recommendations or proposals or comments upon the

proposed or accepted affirmative action plans of the defendants from 1965 to date, including without intending to limit, the letter of approximately August 1971 from the Department of Health, Education and Welfare to the president of the University of Rochester and the letter, in response, from the president of the University of Rochester to the Department of Health, Education and Welfare dated, approximately September, 1971. and any other document of like nature or description.



Emmelyn Logan-Baldwin
Attorney for Plaintiff
510 Powers Building
Rochester, New York 14614

November 20, 1975

U.S. MARSHALS SERVICE INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

24

PLAINTIFF Barbara Noble	COURT NUMBER 75-516
DEFENDANT University of Rochester and Strong Memorial Hospital	TYPE OF WRIT Notice to Produce
SERVE NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN University of Rochester	
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) River Campus, Rochester, New York 14627	
AT	

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Emmelyn Logan-Baldwin, Esquire
510 Powers Building
Rochester, New York 14614

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.

NO.	TOTAL
1	2
OF	

CHECK IF APPLICABLE:

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS:

Please serve the Summons, Complaint and Notice to Produce on the above-noted defendant. Such service can be completed on an officer, director, manager, or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service. You should be able to find an officer and/or a person authorized to receive service at the administration offices of the defendant on River Campus during any ordinary business day. The president of the University

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR <i>[Signature]</i>	TELEPHONE NUMBER 716/232-2292	DATE Nov. 20, 1975
--	----------------------------------	-----------------------

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted. I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.	DEPOSIT/CODE	DIST. OF ORIGIN	DISTRICT TO SERVE	LOCATION OF SUB-OFFICE OF DIST. TO SERVE
	SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK <i>[Signature]</i>			DATE 11/21/75

☒ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above) <i>[Signature]</i>	<input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode.
ADDRESS (Complete only if different than shown above)	FEE (If applicable) \$ 6.00
	MILEAGE \$ 1.22

DATE(S) OF ENDEAVOR (Use Remarks if necessary)	DATE OF SERVICE 11/21/75	TIME AM	SIGNATURE OF U. S. MARSHAL OR DEPUTY <i>[Signature]</i>
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REMARKS
11/28/75

Initial Deposit: -0-

Cost for Service: 12.00

Balance Due: 12.72 mileage

Please Make Remittance
Payable to U. S. Marshal

U.S. MARSHALS SERVICE
INSTRUCTION AND PROCESS RECORD

INSTRUCTIONS: See "INSTRUCTIONS FOR SERVICE OF PROCESS BY THE U.S. MARSHAL" on the reverse of the last (No. 5) copy of this form. Please type or print legibly, insuring readability of all copies. Do not detach any copies.

25

PLAINTIFF Barbara Noble	COURT NUMBER
DEFENDANT University of Rochester and Strong Memorial Hospital	TYPE OF WRIT, to produce
SERVE Strong Memorial Hospital	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)	
AT 260 Crittenden Blvd., Rochester, New York 14620	

SEND NOTICE OF SERVICE COPY TO NAME AND ADDRESS BELOW:

Emmelyn Logan-Baldwin, Esquire
510 Powers Building
Rochester, New York 14614

Show number of this writ and total number of writs submitted, i.e., 1 of 1, 1 of 3, etc.

NO. **2** TOTAL **2**
OF

CHECK IF APPLICABLE:

☐ One copy for U. S. Attorney or designee and two copies for Attorney General of the U. S. included.

SHOW IN THE SPACE BELOW AND TO THE LEFT ANY SPECIAL INSTRUCTIONS OR OTHER INFORMATION PERTINENT TO SERVING THE WRIT DESCRIBED ABOVE.

SPECIAL INSTRUCTIONS: Please serve the Summons, Complaint and Notice to Produce on the above-noted defendant. Such service can be completed on an officer, director, managing or general agent, or cashier or assistant cashier or to any other authorized agent by appointment or by law to receive service. You should be able to find an officer and/or a person authorized to receive service at the administration offices of the defendant during any ordinary business day. The president of the University is Robert L. Sproull.

NAME AND SIGNATURE OF ATTORNEY OR OTHER ORIGINATOR	TELEPHONE NUMBER	DATE
<i>[Signature]</i>	<i>11/23/75</i>	<i>11/23/75</i>

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY - DO NOT WRITE BELOW THIS LINE

Show amount of deposit (or applicable code) and sign USM-285 for first writ only if more than one writ submitted.	DEPOSIT/CODE	DIST. OF ORIGIN	DISTRICT TO SERVE	LOCATION OF SUB-OFFICE OF DIST. TO SERVE
I acknowledge receipt for the total number of writs indicated and for the deposit (if applicable) shown.	SIGNATURE OF AUTHORIZED USMS DEPUTY OR CLERK			DATE
	<i>[Signature]</i>			<i>11/21/75</i>

☒ I hereby certify and return that I have personally served, have legal evidence of service, or have executed as shown in "REMARKS," the writ described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below.

☐ I hereby certify and return that, after diligent investigation, I am unable to locate the individual, company, corporation, etc., named above within this Judicial District.

NAME AND TITLE OF INDIVIDUAL SERVED (If not shown above)	<input type="checkbox"/> A person of suitable age and discretion then abiding in the defendant's usual place of abode.
ADDRESS (Complete only if different than shown above)	FEE (If applicable) \$ 6.00 MILEAGE \$

DATE(S) OF ENDEAVOR (Use Remarks if necessary)	DATE OF SERVICE	TIME	SIGNATURE OF U. S. MARSHAL OR DEPUTY
	<i>11-23-75</i>	AM PM	<i>[Signature]</i>

REMARKS

11/23/75
-0-
12.00
12.72 Mileage
12.72

United States District Court

26

FOR THE

WESTERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO. _____

BARBARA NOBLE
130 Castlebar Road
Rochester, New York 14610

Plaintiff

v.

UNIVERSITY OF ROCHESTER
River Campus
Rochester, New York 14627
and
STRONG MEMORIAL HOSPITAL
260 Crittenden Boulevard
Rochester, New York 14620

Defendants

SUMMONS

To the above named Defendants :

You are hereby summoned and required to serve upon

EMMELYN LOGAN-BALDWIN

plaintiff's attorney , whose address 510 Powers Building, Rochester, New York 14614

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of Court.

Deputy Clerk.

Date: November 20, 1975

[Seal of Court]

NOTE:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

I hereby certify and return, that on the

day of

19

I received this summons and served it together with the complaint herein as follows:

MARSHAL'S FEES

Travel _____ \$ _____

Service _____

United States Marshal

By _____

Deputy United States Marshal

Subscribed and sworn to before me, a

this

day of

, 19

[SEAL]

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

No. _____

United States District Court
FOR THE
Western District of New York

Barbara Noble
130 Castlebar Road
Rochester, New York 14610

Plaintiff

v.

UNIVERSITY OF ROCHESTER
River Campus, Rochester, NY 14627
and
STRONG MEMORIAL HOSPITAL
260 Crittenden Bld., Rochester, NY 14620

Defendants

SUMMONS IN CIVIL ACTION

Returnable not later than _____ days
after service.

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

29

BARBARA NOBLE,

Plaintiff,

-vs-

UNIVERSITY OF ROCHESTER, et al.,

Defendants.

CIV-75-516

NOTICE OF MOTION

TO: EMMELYN LOGAN-BALDWIN
Attorney for Plaintiff
510 Powers Building
Rochester, New York 14614

PLEASE TAKE NOTICE that the attached motion will be brought on for hearing before the Honorable Harold P. Burke, United States District Judge, United States District Court, Western District of New York, in the United States Court House, Rochester, New York on the 5th day of January, 1976 at the opening of Court, or as soon thereafter as counsel can be heard.

Dated: December 12, 1975

NIXON, HARGRAVE, DEVANS & DOYLE
Attorneys for Defendants
Office and Post Office Address
Lincoln First Tower
Rochester, New York 14603
Telephone: (716) 546-8000

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BARBARA NOBLE,

Plaintiff,

-vs-

UNIVERSITY OF ROCHESTER, et al.,

Defendants.

CIV-75-516

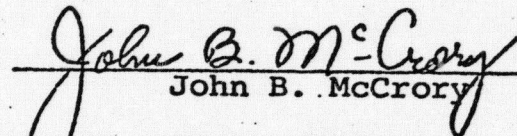
MOTION;
FRCP 12

Upon the complaint and the annexed affidavit of John B. McCrory, sworn to December 12, 1975, defendants respectfully move the Court as follows:

1. To dismiss Count I of plaintiff's complaint on the ground that the Court lacks jurisdiction over Count I of the complaint as more fully appears from the attached affidavit of John B. McCrory.
2. To dismiss Count II of plaintiff's complaint insofar as it seeks injunctive relief against defendants, since there is no right to injunctive relief in a suit brought by an individual upon 29 USC §206(d).
3. To strike the allegations of plaintiff's complaint which allege violation of the Equal Pay Act on behalf of those other than plaintiff, as more fully appears from the attached affidavit of John B. McCrory.
4. To strike from the allegations of plaintiff's complaint, all allegations of the complaint which allege actual

discrimination by defendants which occurred on or before November 7, 1974.

Dated: December 12, 1975


John B. McCrory

NIXON, HARGRAVE, DEVANS & DOYLE
Attorneys for Defendants
Office and Post Office Address
Lincoln First Tower
Rochester, New York 14603
Telephone: (716) 546-8000

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BARBARA NOBLE,

Plaintiff,

-VS-

UNIVERSITY OF ROCHESTER, et al.,

Defendants.

CIV-75-516

AFFIDAVIT

STATE OF NEW YORK:
COUNTY OF MONROE : SS:
CITY OF ROCHESTER:

JOHN B. MC CRORY, being duly sworn, deposes and says:

1. I am a partner of Nixon, Hargrave, Devans & Doyle, attorneys for defendants herein.

2. Plaintiff, in Count I of her complaint, alleges sex discrimination in employment since she was not promoted to the position of Chief Profusionist at Strong Memorial Hospital, although she was qualified to be so promoted. Rather, Aaron Hill, a male, was promoted to such position.

3. Such promotion of Aaron Hill to the position at issue occurred in January, 1974.

4. Under 42 USC §2000e-5(e), a charge alleging a discriminatory practice must be filed with the United States Equal Employment Opportunities Commission (hereafter EEOC) within 180 days after the discriminatory practice allegedly occurred.

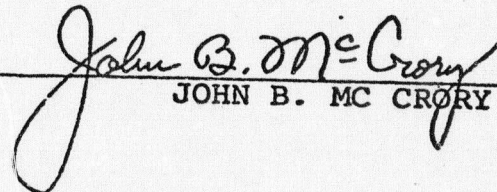
5. Plaintiff herein filed her EEOC charge on May 6, 1975. As a result, plaintiff cannot have any cause of action for any alleged discriminatory employment practices by defendants

which occurred prior to July 10, 1974.


6. As a result, any claim plaintiff has which arose before July 10, 1974 is beyond the Statute of Limitations under 42 USC §2000e-5(e), so that this Court lacks jurisdiction over any such claims.

7. There is no right to injunctive relief under 29 USC §216(b), and thus that that portion of plaintiff's complaint which seeks injunctive relief under 29 USC §216(b) must be dismissed, Roberg vs. Phipps State, Inc. 156 F.2d 958 (2d Cir., 1946); Bowe vs. Judson C. Burns, Inc., 137 F.2d 37 (3rd Cir., 1943).

8. It appears that plaintiff, in her complaint, seeks relief for persons other than herself based upon 29 USC §216(b). However, plaintiff cannot seek relief on behalf of those other than herself upon this section of the Equal Pay Act without first filing with this Court a consent by each such person to sue on their behalf. As a result, this portion of her complaint should be dismissed, 29 USC §216(b), See also, LaChapelle vs. Owens-Illinois, Inc., 513 F.2d 286 (5th Cir., 1975); Paddison vs. Fidelity Bank, 60 F.R.D. 695 (E.D. Pa., 1973).

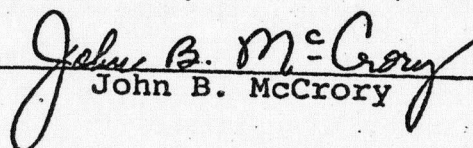

JOHN B. MC GORRY

Sworn to before me this
12th day of December, 1975.


JAMES H. MORCENSTERN
Notary Public in the State of New York
MONROE COUNTY.
Commission Expires March 1, 1977.

CERTIFICATE OF SERVICE

I, John B. McCrory, an attorney with the firm of .
Nixon, Hargrave, Devans & Doyle, attorneys for defendants, do
hereby certify that the foregoing Motion was served upon the
plaintiff, by causing a copy of the same to be mailed to Mrs.
Emmelyn Logan-Baldwin, 510 Powers Building, Rochester, New York
14614, attorney for plaintiff, on this 12th day of December, 1975.



John B. McCrory

-VS-

Defendants.

CIV-75-516

INTRODUCTION

Upon plaintiff's Notice to Produce, dated November 20, 1975, defendants will make available for inspection and copying on the premises of the University of Rochester, the documents and things hereinafter listed. Defendants object to production of all other documents.

Inspection of documents defendants will produce will be permitted during usual University business hours upon 24 hour notice. If plaintiff requires copies of any documents, plaintiff may bring upon the University premises their own copying machine, or defendants will make its copying facilities available at a cost of ten cents per page copied.

RESPONSES

Defendants will produce documents, to the extent they exist, requested in paragraphs 2, 3, 4, 8, 9 and 13 of plaintiff's request.

OBJECTIONS

Defendants object to the documents requested in paragraph 1 of plaintiff's Notice to Produce. Any such documents can relate solely to the alleged denial of promotion by plaintiff, which is barred by the statute of limitations. See, defendants' motion to dismiss plaintiff's complaint in this action dated December 12, 1975. As a result, discovery of such documents cannot result in discovery of information that is relevant or might be relevant to this action, and such requests should be denied.

Defendants object to production of documents requested in paragraph 5 of plaintiff's Notice to Produce to the extent that it requests descriptions or summaries for jobs that plaintiff was not, is not, and does not seek to become qualified for. For example, full compliance with paragraph 5 of plaintiff's Notice to Produce would require production of job

descriptions or summaries for medical doctors. Plaintiff is not, and was not ever qualified to hold such positions, nor did plaintiff seek such positions. As a result, production of these documents would be wholly irrelevant to this action, and would place unnecessary burden and expense upon defendants. However, subject to this objection, defendants will make available documents requested in paragraph 5.

Defendants object to the requests set forth in paragraphs 6 and 7 of plaintiff's Notice to Produce, on the ground that plaintiff's request is overly broad, and so vague as to violate the requirements of FRCP 34. If plaintiff is able to specify some document or recognizable category of documents which are relevant to this action, defendants will make a more specific response to these requests. Moreover, Strong Memorial Hospital currently has over 3300 employees, over 2900 of whom are full-time, working in several hundred job categories. Plaintiff's complaint concerns only two job categories. To comply with the requirements of paragraphs 6 and 7 from 1965 to date would require inspection of records for at least (or perhaps in excess of) 5000 ex-employees. Moreover, in any event, plaintiff's request should be limited in time to January 1, 1973, a time before she began her assignment as a cardiac profusionist. Plaintiff's request should also be limited to the department or departments wherein she worked or sought to work.

Plaintiff's request is calculated to harass and burden defendant and must be limited and made more specific so as to comply with FRCP 34.

Defendants object to requests set forth in paragraphs 10 and 12 of plaintiff's Notice to Produce. These requests are so vague as to be meaningless to defendants. Plaintiff may be seeking documents which may or may not exist in the hands of defendants' federal affirmative action compliance agencies. Defendants have no knowledge whether any such documents exist, but, to their knowledge, they have never seen any such documents.

Defendants object to paragraph 11 of plaintiff's Notice to Produce. Plaintiff's request for "compliance reviews or audits or findings or recommendations of compliance reviews or audits or employment practices of the defendants" is so broad as to be meaningless and in violation of requirements of FRCP 34.

Because of the size of the University and its countless contracts, programs, and grants, there are at least two auditors, reviewing agents, or compliance officers from one agency or another on University premises nearly every day of the University year.

Compliance with paragraph 11 would require physical inspection of hundreds of file drawers of material located in the offices of the following University personnel:

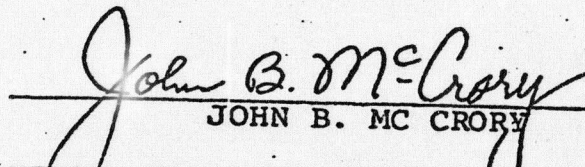
- (a) Principal investigators
- (b) Department Chairman

- (c) College Deans
- (d) College Directors
- (e) Research and Project Administration Personnel
- (f) Payroll Personnel
- (g) General Administrative Personnel
- (h) University Financial Personnel

Moreover, plaintiff's request for "reviews or audits" for "approximately August, 1974 - October, 1974; approximately June, 1974; approximately winter of 1971 and 1972; approximately spring - summer, 1971, from 1965 to date," not only makes no sense, but is, again, hopelessly and needlessly vague. Plaintiff fails to specify what, of the many, listed agencies allegedly made such audits at those times, so that defendant has no means of knowing exactly what plaintiff is seeking.

Dated: December 19, 1975

Respectfully submitted,

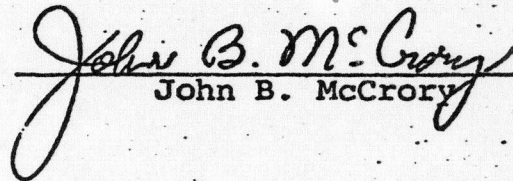


JOHN B. MC CRORY
NIXON, HARGRAVE, DEVANS & DOYLE
Attorneys for Defendants
Office and Post Office Address
Lincoln First Tower
Rochester, New York 14603
Telephone: (716) 546-8000

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Response to Notice to Produce to be served on plaintiff Barbara Noble, by causing a copy of the same to be mailed to Emmelyn Logan-Baldwin, 510 Powers Building, Rochester, New York 14614, attorney for plaintiff, on this 19th day of December, 1975.



John B. McCrory

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

41

BARBARA NOBLE,

Plaintiff,

-vs-

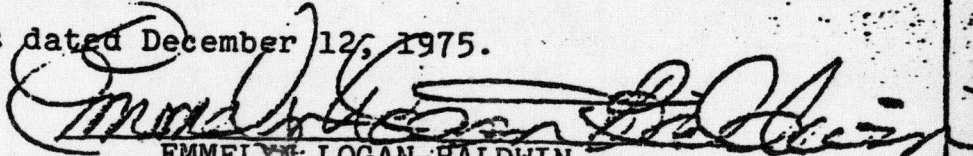
UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL,

Defendants.

*
*
* NOTICE OF CROSS-MOTION
* AND MOTION TO COMPEL
* DISCOVERY; OPPOSITION
* TO DEFENDANTS' MOTION TO
* DISMISS
*
*
*

PLEASE TAKE NOTICE that upon the annexed affirmation of Emmelyn Logan-Baldwin, dated January 9, 1976, and upon all the papers and proceedings heretofore had herein, plaintiff will move at a motion term of this court at the Federal Court House, State Street, Rochester, New York at 10:00 A.M. or as soon thereafter as counsel can be heard on January 12, 1976 for an order compelling the defendants to produce documents pursuant to plaintiff's First Notice to Produce dated November 20, 1975 and duly served on the defendants herein and/or for an order precluding the defendants from proof in defense of plaintiff's claims herein and for such other and further relief as to the court may seem just and proper.

PLEASE TAKE FURTHER NOTICE that upon the same papers and at the same time and place, plaintiff will oppose defendants' motion to dismiss dated December 12, 1975.


EMMELYN LOGAN-BALDWIN
Attorney for Plaintiff
Office and P.O. Address:
510 Powers Building
Rochester, New York 14614
Telephone: 716-232-2292

January 9, 1976

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK

42

BARBARA NOBLE,

Plaintiff,

-vs-

UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL,

Defendants.

*
*
* AFFIRMATION IN SUPPORT
* OF CROSS-MOTION TO
* COMPEL DISCOVERY;
* OPPOSITION TO DEFENDANTS'
* MOTION TO DISMISS
*
*

Emmelyn Logan-Baldwin, under penalties of perjury, affirms
the following:

1. I am an attorney at law duly licensed to practice my
profession in the State of New York. My offices are located
at 510 Powers Building, Rochester, New York. I am a member
of the bar of this court. This affirmation is made in support
of plaintiff's Cross-Motion to Compel Discovery and in opposition
to defendants' motion to dismiss.

2. Plaintiff's request for relief should be granted.
There is no basis whatsoever for defendants' motion to
dismiss. All of the allegations of plaintiff's complaint
are true, for purposes of a motion to dismiss. The pleading
must be given its most favorable reading in the interest of
concluding that there is a statement of a claim. In the
complaint, plaintiff in paragraph after paragraph outlines
a pattern, practice, custom and usage of discrimination on
the basis of sex in violation of law carried on by the
defendants from the inception of her employment and continuing
to date, as her employment continues to date.

3. In summary, plaintiff charges that the defendants
have discriminated against her solely because of her sex

by denying her equal compensation, terms, conditions and privileges of employment and by the defendants' engaging in a custom, practice, and usage of discrimination against her and other persons similarly situated in violation of law. She charges that the defendants have limited employment opportunities for herself and other women solely because of sex and have consistently and purposefully limited and deprived her and other women employees of rights guaranteed to them under law, with the intent and design, both directly and indirectly, of fostering and protecting the advantage and advancement of male employees to the detriment of female employees. In particular, plaintiff charges that the defendants maintain a policy, practice, custom or usage of discriminating against herself and other women employees by: (1) excluding women from certain job classifications (2) denying women equal pay for equal work (3) recruiting males for the best-paying, career-oriented jobs and relegating women to lower paying jobs with no career or advancement prospects (4) providing training to male employees and denying such training to female employees (5) promoting and advancing male employees while denying these opportunities to female employees (6) fostering an atmosphere in the employment situation which is calculated to harass, embarrass, humiliate and cause the woman employee to "keep her place".

4. The claim here is a claim of pervasive and continuing employment discrimination. There is no basis for defendants' characterization of the complaint in their motion to dismiss as a complaint of one isolated incident of discrimination. Since plaintiff has been employed by the defendants she has sought advancement and promotions; she continues to seek advancement and promotions. Since plaintiff has been employed by defendants she has sought training opportunities; she continues to seek those training opportunities. Since plaintiff has been employed by the defendants, she has sought equal pay for equal work; plaintiff still seeks equal pay for equal work, for example.

5. When a complaint of employment discrimination states claims of continuing acts of discrimination and/or challenges continuing policies, practices, customs or usages of continuing discrimination, the time for filing such claims does not start to run until those acts of discrimination cease or the policies, practices, customs and usages are discontinued. In other words, the statute of limitations does not begin to run against these claims until the last act of discrimination or the last policy perpetuating discrimination ceases. Title VII of the Civil Rights Act of 1964 under which these claims are sued, the regulations of the Equal Employment Opportunity Commission as well as case law applying and interpreting Title VII so state. Plaintiff could properly file her claims of discrimination today, tomorrow or next week and still have timely filed

those claims since the discrimination continues and, as of yet, the statute of limitations has not even begun to run on the claims.

6. Plaintiff first filed her claims of employment discrimination with the New York State Division of Human Rights on or about March 3, 1975. At that same time and pursuant to Title VII of the Civil Rights Act of 1964, plaintiff cross filed those claims with the Equal Employment Opportunity Commission. (A copy of my forwarding letter to the Equal Employment Opportunity Commission enclosing the complaint and a copy of the signed, return-receipt by the Commission dated March 4, 1975 are attached hereto and made a part hereof as Exhibit A. Defendants are simply incorrect in suggesting that plaintiff first filed her claims with the Equal Employment Opportunity Commission on May 6, 1975). While defendants herein have raised objection before the New York State Division of Human Rights as to the timeliness of plaintiff's claims, all those contentions of the defendants have been rejected by the Division which has ruled that the discrimination involved is continuing discrimination. A copy of the legal opinion of the Division is attached hereto and made a part hereof as Exhibit B.

7. When there is a state procedure to deal with employment discrimination claims, it is required by Title VII that those procedures be initiated. Action by the Equal Employment Opportunity Commission is deferred for 60 days when there are state procedures available. And, when there

are state procedures available, the time for filing a claim with the Equal Employment Opportunity Commission under Title VII is within 300 days of the conclusion of the discrimination. (Defendants are simply incorrect in suggesting that the provision of the law is filing within 180 days.) Here, as noted above, the 300 days have not yet even begun to run since the discrimination involved is continuing discrimination against the plaintiff who continues her employment with the defendants.

8. In describing the pervasiveness of defendants' employment discrimination, plaintiff alleges that the employment discrimination has been practiced against her and others similarly situated. The policies, practices, customs and usages of which plaintiff complains affect more than plaintiff. In fact, courts interpreting Title VII have held that, as a matter of law, an employment discrimination case affects more than one person and has therefore a "class" aspect. Plaintiff, however, seeks only in this complaint relief for herself from the employment discrimination of the defendants. Obviously, her succeeding in ending illegal employment policies, practices, customs and usages will benefit other employees but she does not seek to represent other employees in this law suit on their claims of discrimination nor would other employees be bound by the judgment the court enters herein. Defendants' request that the court strike what they suggest "seem to be" claims for relief for other than the plaintiff should therefore be denied.

9. Plaintiff is asking that the court declare the acts of the defendants and the policies, practices, customs and usages of the defendants to be illegal. Further, plaintiff is asking that the court enjoin the defendants from "... continuing or maintaining any policy, practice, usage or custom of denying, abridging, withholding, conditioning, limiting or otherwise interfering with the rights of the plaintiff and their women employees to enjoy equal employment opportunities as secured by Title VII of the Civil Rights Act of 1964, as amended and the Fair Labor Standards Act, Equal Pay Act 29 U.S.C. §§ 206(d), 215 and 216."

10. Unquestionably, this court has power pursuant to Title VII of the Civil Rights Act of 1964 to enjoin an employer from continuing or maintaining any policy, practice, usage or custom of denying any employment opportunity - including, of course, denying any woman equal pay for equal work. The court clearly has power to grant the injunctive relief requested herein and defendants' motion to dismiss the claim for injunctive relief must be denied. Plaintiff has no objection, if defendants insist, to striking the reference to the Fair Labor Standards Act, Equal Pay Act in paragraph 2 of the prayer for relief.

11. In summary, defendants' motions must be denied. Plaintiff has timely filed her claims of pattern, practice, custom and usage, continuing discrimination in employment. All the relief plaintiff requests is appropriate in this employment discrimination case.

12. The court should grant plaintiff's motion to compel production of documents. With the complaint herein which was served on November 24, 1975, plaintiff caused to be served First Notice to Produce. Notwithstanding that the notice, pursuant to Rule 34 of the Federal Rules of Civil Procedure required defendants to produce the documents therein at my offices on January 9 and 12, 1976, defendants have produced no documents and have indicated in their Response to Notice to Produce dated December 19, 1975 that they do not intend to produce any documents at my office but only to make some documents available at the University of Rochester; other documents defendants claim they should never be required to produce.

13. All the materials required to be produced by plaintiff's First Notice to Produce are relevant, as a matter of law, in an employment discrimination case. Whether such complaint be described as an "individual" claim or a "class" claim, the plaintiff is entitled to the production of materials relating to specific instances of discriminatory acts as well as to the production of documentary and statistical evidence - the so-called pattern and practice evidence which illustrates the general employment scene. In case after case of employment discrimination the courts have directed production of materials such as is requested in plaintiff's First Notice to Produce. Plaintiff's First Notice to Produce is an initial request only; it in no way should be construed as representing the complete production to which plaintiff is entitled in this case.

14. Not only is plaintiff entitled to compel the production of documents under the authority developed under Title VII and other laws outlawing employment discrimination, but these materials must be produced because the requests clearly fall within the production required in any civil litigation pursuant to the Federal Rules of Civil Procedure. By Rule 26 plaintiff is entitled to the production of information that is relevant to the claims or to the production of information which might lead to relevant information.

15. Plaintiff is entitled to the production of documents at my office. Normally production is made at the office of the requesting party's attorney. Defendants have suggested no reason justifying departure from the normal rule on production. Plaintiff is prepared to defray the costs of any copies of the documents she wishes to make by those copies being made at my office. Defendants should not be allowed to frustrate plaintiff's legitimate discovery by requiring me to travel to the University of Rochester, make arrangements for bringing copying equipment to the premises or paying the University of Rochester for copies of documents.

16. While defendants have not raised any question of burden in complying with the First Notice to Produce, such claim, if intended to be made, cannot defeat the production. Plaintiff is entitled to information in the control of the defendants which relates to her claims. The rules contemplate that the producing party will necessarily have to undertake

the expenditure of time and resources in complying with any production requests. However, those costs are necessarily involved in litigation.

17. As to defendants' specific objections to specific requests in the First Notice to Produce, in item 1, plaintiff requests the production of documents relating directly or indirectly to the recruiting, training, and promotion of a male to a job which plaintiff was denied and continues to be denied. This claim, among other claims of the plaintiff, have been properly and timely filed and there is no basis for defendants' refusal to produce the documents because they have made a motion to dismiss. Even if, for the sake of argument, defendants' were correct in their contention that this particular act of discrimination is not continuing discrimination, plaintiff would still be entitled to the production since in an employment discrimination case, as above noted, a plaintiff is entitled to both general and specific proof of discrimination. A plaintiff is entitled to show the entire employment picture. Plaintiff may even request production of evidence which relates to discrimination pre-dating the effective date of Title VII in support of her claims of discrimination under Title VII. This alleged act of discrimination whether, arguably, plaintiff can recover for it or not certainly is part of the pattern and practice evidence which plaintiff is entitled to have produced.

18. Nor is defendants' objection to the production of job descriptions for all persons employed in the area of cardiac surgery at Strong Memorial Hospital well taken. Plaintiff could have requested a far broader production since she is entitled to show the general employment picture of the defendants. Her discovery is in no way limited to whether plaintiff was employed in those jobs, is employed in those jobs or does not seek to become employed in those jobs, as defendants suggest. The law requires all employment opportunities to be available to any person regardless of sex. Obviously, plaintiff has perceived herself qualified and eligible for many positions to which defendants have denied her access. Plaintiff is entitled to have the background on the available positions. It is an ultimate question of fact to be proven at trial whether plaintiff is qualified for the positions and whether the failure of the defendants to make employment opportunities available to her has resulted solely because of her sex.

19. In items 6 and 7 of the First Notice to Produce, plaintiff requests statistical information as to name, sex, classification and so forth on employees of defendant Strong Memorial Hospital from 1965 to date and also the pay scales or like documents for positions at Strong Memorial Hospital from 1965 to date. The demand relates to documents from the effective date of Title VII to date. As noted above, plaintiff would be entitled even to information pre-dating the effective date of Title VII. There is no basis then for defendants' suggestion that the production ought be limited

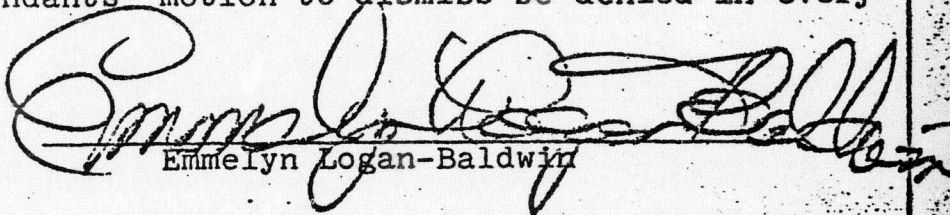
to January 1, 1973, nor as noted above, can defendants restrict production to the department where plaintiff has worked or sought to work. This is a pattern and practice discrimination law suit. Plaintiff is entitled to show the general employment picture in any event, whether the claim is an "individual" claim or a "class" claim.

20. Most, if not all of the information requested in items 6, should be available in computer print out form. The materials requested in item 6 are materials which defendants have been required to assemble and keep in connection with evaluating and/or auditing their employment practices to, for example, prepare affirmative action programs. A document identified as pay scales, salary ranges, salary grades or a document of like description is routinely maintained by most employers. Defendants make no fair claim that the documents requested in items 6 and 7 are too vaguely described to be identified.

21. In items 11 and 12, plaintiff has requested production of compliance reviews or audits or findings or recommendations of compliance reviews or audits of employment practices of the defendants. That defendants can in good faith assert that these demands are "...so vague as to be meaningless to the defendants, " and would require a great deal of searching on their part is astonishing. The particular compliance reviews, audits or like documents which are mentioned in demand 11 are particular reviews which the agent and employee of the University of Rochester, Alan L. Heyneman, acknowledged in his deposition for this

court in Weed and Weed v. University of Rochester. As is demonstrated by the excerpts of Mr. Heyneman's testimony, attached hereto and made a part hereof as Exhibit C, the documents are easily identified and production will present no problem.

22. For these reasons, plaintiff respectfully requests that her motion to compel discovery be granted. She requests that defendants' motion to dismiss be denied in every respect.



Emmelyn Logan-Baldwin

January 9, 1976
Rochester, New York

Exhibit A

EMMELYN LOGAN-BALDWIN
ATTORNEY AND COUNSELOR AT LAW
510 POWERS BUILDING
ROCHESTER, NEW YORK 14614
716-232-2292

55

March 3, 1975

CERTIFIED MAIL-
RETURN RECEIPT

Mr. Lloyd Bell,
Regional Director
Equal Employment Opportunity Commission
1 West Genesee Street
Buffalo, New York 14202

Re: Noble vs. University of Rochester, et al.

Dear Mr. Bell:

I enclose herewith for filing a verified complaint in the above noted matter.

Please advise as to the course of your anticipated investigation.

Very truly yours,

Emmelyn Logan-Baldwin (BP)
Emmelyn Logan-Baldwin

ELB:bs
Enc.

PS Form 3811, Nov. 1973

SENDER: Complete items 1 and 2.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

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Exhibit B

STATE OF NEW YORK

Executive Department

DIVISION OF HUMAN RIGHTS

INTER-OFFICE MEMORANDUM

58
RECEIVED
AUG 25 1975
REGIONAL DIRECTOR

To: Robert R. Shaw, Dir.
Reg. Oper. (Upstate)

Office New York

From: Henry Spitz
General Counsel

Date August 15, 1975

Subject: Noble v. University of Rochester, et al. Case No. CSF-36789-75

The following report was prepared by Miss Offner in response to your inquiry as to whether the complaint is barred by the one year statute of limitations and whether the Division has jurisdiction over the class aspects of the complaint.

Facts

The complainant, a woman, is a registered nurse who has been employed by the University of Rochester and Strang Memorial Hospital since 1969. Her complaint charges, inter alia, that the respondents maintain a policy of "discriminating against complainant and other person similarly situated because of sex with respect to hiring, compensation, terms, conditions and privileges of employment," and that because of this policy, complainant was denied a promotional opportunity in January 1974. The complaint was filed in March 1975.

The complainant seeks an order requiring the respondents to establish a plan to eliminate the unlawful practices charged, and awarding the complainant specific relief including promotion, back pay, seniority and fringe benefits.

The respondents contend that:

1. To the extent that the complaint involves a failure to promote the complainant in January 1974, it is barred by the statute of limitations.
2. To the extent that the complaint alleges a policy of discrimination by respondents against their female employees, it is an improper class action.

RECEIVED

AUG 19 1975

DIV. OF REGIONAL AFFAIRS

The complainant contends that:

1. The failure to promote her in January 1974 was not a single, isolated incident but part of a continuing denial to complainant of equal compensation, terms, conditions and privileges of employment, beginning with her employment in January 1969, and continuing to the present.

2. Her complaint is an individual, not a class action complaint, and it is appropriate in such a complaint to charge a policy of discrimination.

Question

1. Is the complaint barred by the statute of limitations in Human Rights Law, Section 297.5?

2. Are the "class" aspects of the complaint proper?

Answer and Discussion

1. No. The complaint should be considered a charge of a continuing act, and therefore not barred by the time limitation in the statute. See Division's Rules of Practice, Sec. 3 (e); Russell Sage College v. SDHR, 45 A.D. 2d 153, 357 N.Y.S. 2d 171. See also Cady v. N.Y.S. Division of Veteran Affairs, Case No. GCRF-35702-74, Appeal No. 2591, in which the State Human Rights Appeal Board, ruled that a refusal to promote was a continuing act of discrimination. (L.B. 342:7)

2. Yes. The Division may give broad relief in any case brought before it whether it is brought by an individual or organization, and without regard to the form of the complaint. The Division's order need not be limited to the individual who brought the complaint, but may require the respondent "to take such affirmative action...as in the judgment of the division will effectuate the purposes" of the Human Rights Law. (§ 297-4c). See MOL 630, p. 10)

HENRY SPITZ, General Counsel

By William M. Miles
WILLIAM M. MILES
Supervising Attorney

HS/WMM/JO/rr
cc: Commissioner Werner H.
Kramarsky

Joan Offner

Exhibit C

and some change in the recruitment pools.

Q. Is your present affirmative action plan one comprehensive document?

A. Yes, I think that would be an appropriate description of it.

Q. And have the past affirmative action plans also been one comprehensive document?

A. Yes.

Q. Covering the University of Rochester at River Campus, Rochester, New York?

A. Covering the University of Rochester; all of the operations in New York State.

Q. Would those be outside of Rochester?

A. It applies to all employees of the University. There is-- I think that's in essence.

Q. Some of them, I gather, would be outside of Rochester?

A. Yes, we have an observatory at Bristol Hills and we have people on field assignments at various places, and we have at any given time faculty on leave who are still employees of the University. We have a variety of distributions of faculty and staff.

THE WITNESS:

Excuse me just a moment.

I want to ask Mr. McCrory a technical question.

1 about ten days?

2 A. I think, at least.

3 Q. And how about in terms of what you might call informal
4 instruction, and there I mean conferences among staff at
5 the college or university level?

6 A. I would have no reasonable way of estimating that time.
7 There has been a considerable amount of attention to these
8 matters.

9 Q. Now, with respect to the Government's review of the affirma-
10 tive action programs, have you furnished information in any
11 of the compliance reviews that we have discussed with
12 respect to the nepotism rule, or otherwise referred to as
13 the rule to employ close relatives, or the rule regarding
14 the employment of close relatives?

15 A. Policy on the employment of relatives. Yes, we have.

16 Q. And give me the date of the first compliance review in which
17 that rule of policy was discussed.

18 A. I can not do that. I don't know.

19 Q. Give us the approximate time.

20 A. Well, it would have been after the publication of the
21 revision of Order 4 to include sex and, therefore, I sus-
22 pect it was in connection with the compliance review which
23 preceded in the fall and winter of 1971 and '72.

1 Q. Yes, but I want to be sure that I have the parties to the
2 discussion clear.

3 A. Yes.

4 Q. Now, what was the substance of the discussions about the
5 nepotism or employment of relatives policy?

6 A. That the policy was directed towards preserving the ability
7 of all staff and faculty of the University to act as
8 objectively as possible without preferment or discrimina-
9 tion based on relationships, that the policy was addressed
10 to the business needs of the University, but I believe
11 that that discussion was brief and not very detailed, if
12 I remember correctly.

13 Q. And who initiated the discussion--you or the personnel
14 from the Government?

15 A. I don't remember.

16 Q. Do you remember whether you furnished them any documenta-
17 tions such as either one of these exhibits explaining what
18 the policy was or what the contents of the policy was?

19 A. I believe we did provide those-- some or perhaps all of
20 those documents. As nearly as I can remember, we did,
21 but I can not be absolutely certain.

22 Q. Beyond that discussion did the Government inquire as to
23 the legality of that policy as it related to fair employment

1 practices?

2 A. No, in no specific way. I have an impression that they
3 were satisfied that the policy was not discriminatory in
4 terms of sex, that it was addressed to legitimate business
5 concerns.

6 Q. What did you present to them other than this discussion in
7 the way of documentation to establish what ought to be in
8 your mind a conclusion that it was not discriminatory?

9 A. I don't believe we provided any documentation. I think
10 they made some inquiries in the University and of me as to
11 how it was applied, and I think my responses were informal
12 of the facts then at hand, but I don't believe that there
13 was any particular report produced in that connection.

14 Q. When they asked you how it was applied, what did you tell
15 them? What was the substance of that discussion?

16 A. As I can remember-- one of the difficulties that I am
17 having is sorting out which conversation took place at
18 which time, because we have had a number of conversations
19 relating to employment in all its concerns at various times
20 with Government agencies and representatives, and I can't
21 really distinguish one from the other, but I can remember
22 at various times discussing with one Government auditor or
23 another the sorts of problems that arise in connection

1 with the employment of relatives and the ways in which
2 universities as a practice tried to approach those con-
3 cerns.

4 Q. And give me the substance of those conversations or the
5 explanation.

6 A. In general, we attempt to place, where there are two rela-
7 tives, either one on the staff-- or two relatives who are
8 candidates for the staff, we try to place them in positions
9 where their relationship will impose no infringement on
10 their ability to act individually and independently based
11 on their professional, technical, or whatever judgment is
12 involved, and where records of one need not be subjected,
13 for example, to the review or approval of another, where
14 proposals of one relative would not be submitted for
15 approval or concurrence by another relative, where there
16 would not be conflict of interest or of time with respect
17 to relatives simultaneously employed by the institution.
18 This, in the institution at the University of Rochester,
19 is not difficult, generally speaking, to place people in
20 positions where these conflicts will not arise, because
21 the organization is relatively large.

22 Q. Do you have documentation or memoranda concerning the 1971-
23 72 review-- any writings of any nature with reference to

1 the inquiry and your responses to the inquiry on the employ-
2 ment of close relatives?

3 A. None that I can recall, no.

4 Q What was the next review subsequent to the 1971-72 in
5 which the employment of close relatives policy was inquired
6 into or discussed or mentioned in any fashion?

7 A. Keep in mind that my response to your earlier question was
8 that it was my nearest recollection that that was the first
9 inquiry about it.

10 Q I understand.

11 A. It may have been actually in the subsequent review or in
12 another connection altogether.

13 Q. O.K.

14 A. But I can remember responding to one of the Government
15 auditors about this subject--

16 Q. Yes.

17 A. And having a general discussion of the sort that I have
18 just described, but I can not remember the specific dates
19 of that discussion or in what particular-review it was in
20 connection with.

21 Q. Other than this one discussion which, I gather, you have
22 already told me about--

23 A. Yes.

1 for equal employment opportunity obviously extends to
2 everyone who has a supervisory or policy control over
3 University affairs.

4 Q Are you required in your management position to attend
5 briefings or instruction in the area of equal employment
6 regulations and laws?

7 A. Yes.

8 Q. And are those briefings or instructions scheduled so many
9 times a year on a regular basis?

10 A. I think they are regularly scheduled for all-- for
11 University staff, generally, and managers, generally, but
12 I would not necessarily regularly attend them unless there
13 was a change in the regulations or a new program that was
14 being developed, or this sort of thing.

15 Q. Now, when was the complaint reviewed, that you mentioned
16 participating in recently, completed?

17 A. The most recent one was-- I can't tell you the exact com-
18 pletion date, but it was with respect to a pre-award
19 review and the contract was renewed, if I remember cor-
20 rectly, effective 1 October, 1974. The review actually
21 took place in August of 1974. When, exactly, the review
22 was completed, I can't give you any specific date, but it
23 was some time prior to 1 October, if that is correct. It

1 That is, we preferred to have an affirmative action be in
2 the mainstream of personnel actions.

3 Q. Do I understand you correctly, they wanted you to set up
4 a department separately from personnel and a separate
5 officer, separate from the personnel director, who would
6 be known as the affirmative action officer?

7 A. I think that was the substance of the suggestion.

8 Q. And was there any action taken on that recommendation?

9 A. It was an informal suggestion. It was never conveyed as
10 a formal recommendation or request.

11 Q. Was there any action taken on the informal suggestion?

12 A. Yes, we considered it very carefully, but we have not made
13 any action other than that.

14 Q. Now, prior to the most recent compliance review in this
15 fall, what were the previous compliance reviews, the
16 approximate dates?

17 A. There was one just three months before, in June, 1974.

18 Q. And was that also conducted by personnel of the Department
19 of Health, Education and Welfare?

20 A. It was.

21 Q. And how was this review characterized, as a regular or
22 special precontract or any other?

23 A. It was also a pre-award compliance review.

1 in regard to the compliance review at the University of
2 Rochester conducted by the Department of Health, Education
3 and Welfare in June of 1974. Do I understand you to say
4 that this was a regular compliance review?

5 A. It was a pre-award review.

6 Q. Excuse me, pre-award, and were there any recommendations
7 by the investigators of the federal government to the
8 University of Rochester with respect to employment prac-
9 tices?

10 A. No, none were received.

11 Q. Were there any informal comments with respect to the employ-
12 ment practices being deficient during the course of this
13 compliance review?

14 A. No.

15 Q. Did this compliance review result in a compliance report
16 which was discussed with you?

17 A. No.

18 Q. Was there a compliance report discussed with any other
19 person, to your knowledge?

20 MR. MC CROBY: You mean any other
21 person in the University?

22 MRS. LOGAN-BALDWIN: Yes.

23 A. No. I should point out, though, that there was-- obviously,

1 the result of the review was the approval, HEW's approval
2 of the contract then in question.

3 Q. Was that an approval which was given by HEW in writing to
4 the University?

5 A. No, it was not conveyed to the University at all; it was
6 conveyed to the agency that was issuing the contract.

7 Q. All right. Prior to the June, '74 compliance review
8 when was the previous compliance review? Could you
9 describe the document that--

10 MR. MC CRORY: No.

11 Q. --that you referred to to refresh your recollection?

12 MR. MC CRORY: No, don't reply. Don't
13 describe.

14 A. The last previous compliance review was in the winter of
15 1971 and 1972.

16 MRS. LOGAN-BALDWIN: Let the record reflect
17 that Mr. McCrory supplied the dates for the wit-
18 ness and I would request that the witness testify
19 without coaching or interruption during the course
20 of the scheduled hours of examination.

21 Q. Now, was this compliance review which you have described
22 as the winter of 1971 or '72 conducted by the Department
23 of Health, Education and Welfare?

1 to the extent we have them or can collect them, so that
2 there are probably some kinds of materials which were
3 initially requested which didn't exist or were not
4 available or for one reason or another could not be pro-
5 duced in the form initially asked for. But, where they
6 were interested in certain types of information we did
7 ultimately provide it--find a way of providing it for them
8 to the net effect that they were satisfied with the materials
9 that they obtained.

10 Q. Then my question is, assuming that the document was in
11 existence and you were able to provide it, were there any
12 of those documents in existence--a document which you could
13 provide--which the Government requested and which you
14 refused for one reason or the other to produce?

15 A. I remember no such specific document that was requested
16 and not produced.

17 Q. Prior to the '71-72 review when was the previous compliance
18 review?

19 A. I think it must have been in the summer of 1971-- the
20 spring.

21 Q. Could you identify for the record your yellow paper--

22 MR. MC CRODY: No.

23 Q. --that you were using to refresh your recollection?

1 A. None of which I am aware.

2 Q. Now, in the most recent review this fall, what writings are
3 there existent, either from the Federal Government to you
4 or from you or any other person on behalf of the University
5 of Rochester, with respect to that review?

6 A. We supplied them with a great volume of material.

7 Q. And you have collected a file which contains copies of
8 that great volume of material?

9 A. We provided it to the Department of Health, Education and
10 Welfare.

11 Q. So was there also correspondence between you and HEW as
12 to what documents should be provided?

13 A. There was an initial letter of request from the Department
14 indicating the materials which they would like us to have
15 prepared for the review; and there were letters of trans-
16 mittal of some of the materials, I believe, as nearly as I
17 can remember, but the materials that we supplied comprised
18 a very large volume of, I think, several boxes of material.

19 Q. And were there any documents or materials which HEW requested
20 in this most recent compliance review which the University
21 did not supply for one reason or the other?

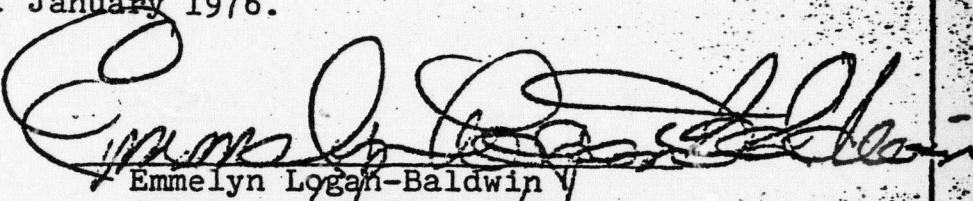
22 A. I believe not.

23 Q. Essentially there weren't any disputes most recently as to

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Cross-Motion to Compel Discovery; Opposition to Defendants' Motion to Dismiss and Affirmation in Support of Cross-Motion was served on the defendants by my causing a copy to be delivered to the offices of attorneys for defendants, Nixon, Hargrave, Devans & Doyle, John B. McCrory, Esq., of Counsel, Lincoln First Tower, Rochester, New York 14603, on this 9th day of January 1976.


Emmelyn Logan-Baldwin
Attorney for Plaintiff
Office and P.O. Address:
510 Powers Building
Rochester, New York 14614

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

BARBARA NOBLE,

Plaintiff

- vs -

CIVIL 75-516

UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL,

Defendants

Emmelyn Logan-Baldwin
510 Powers Building
Rochester, N.Y. 14614
Attorney for plaintiff

Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, N.Y. 14603
Attorneys for defendants

The defendants move to dismiss the complaint by motion dated December 12, 1975. By motion filed January 12, 1976 with supporting papers the plaintiff moves for an order to compel the defendants to produce certain documents. The motions were submitted for decision on January 26, 1976.

If plaintiff had received the job of "Chief Profusionist" in January 1974, she would have had no actionable complaint. 42 U.S.C. 2000e-5(e), on which the suit is based, requires that a charge be filed with

the United States Equal Employment Opportunity Commission within 180 days after the alleged discriminatory practice occurred. The charge had to be filed no later than August 1, 1974. The plaintiff filed her Equal Employment Opportunity Commission charge on March 4, 1975. The charge was untimely.

The action is dismissed.

SO ORDERED.

Harold P. Burke

HAROLD P. BURKE
United States District Judge

March 1, 1976.

BARBARA NOBLE

-vs-

Civ-75-516

UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL

SIR: Take notice of an ORDER & DECISION dismissing the
_____ action

duly granted in the above entitled action on the 1st day
of March, 1976, and duly entered in the office of the
Clerk of the United States District Court, Western District
of New York, on the 2nd day of March, 1976.

Dated: Buffalo, New York

March 2, 1976

JOHN K. ADAMS, Clerk
U.S. District Court
U.S. Courthouse
Buffalo, New York 14202

To Emmelyn Logan-Baldwin, Atty.
Attorney for Plaintiff

To Nixon, Hargrave, Devans & Doyle
Attorney for Defendant

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

77

BARBARA NOBLE

-vs-

Civ- 75-516

UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL

JUDGMENT

SIR: Take notice of an ~~ORDER~~ of which the within is a copy duly granted in the within entitled action on the 2nd day of March, 1976, and entered in the Office of the Clerk of the United States District Court, Western District of New York, on the 2nd day of March, 1976.

Dated: Buffalo, New York

March 2, 1976

JOHN K. ADAMS, Clerk
U.S. District Court
U.S. Courthouse
Buffalo, New York 14202

TO: Emmelyn Logan-Baldwin, Atty.-
Attorney for Plaintiff

TO: Nixon, Hargrave, Devans & Doyle
Attorney for Defendant

United States District Court

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FOR THE

WESTERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO. 75-516

BARBARA NOBLE

vs.

UNIVERSITY OF ROCHESTER and
STRONG MEMORIAL HOSPITAL

JUDGMENT

This action came on for ~~trial~~ (hearing) before the Court, Honorable **Harold P. Burke**, United States District Judge, presiding, and the issues having been duly ~~heard~~ (heard) and a decision having been duly rendered,

It is Ordered and Adjudged **that this action is dismissed.**

Dated at **Buffalo, New York**
of **March**, 19 **76**.

, this **2nd** day

JOHN K. ADAMS

JOHN K. ADAMS
Clerk of Court

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

BARBARA NOBLE,

Plaintiff,

-vs-

UNIVERSITY OF ROCHESTER and STRONG
MEMORIAL HOSPITAL,

Defendants.

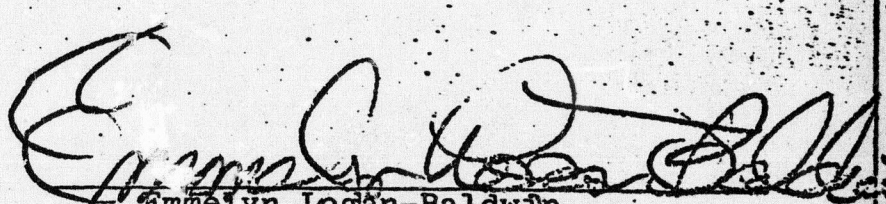
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NOTICE OF APPEAL

Civil Action No.

75-516

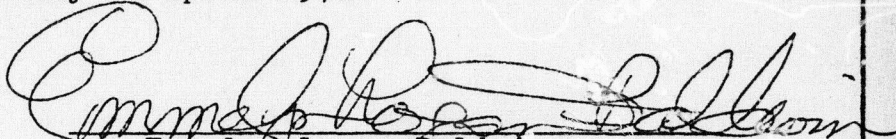
Plaintiff, Barbara Noble, hereby appeals from the
Order and Decision of The Honorable Harold P. Burke,
dated March 1, 1976, dismissing the complaint against
all defendants. Plaintiff appeals on the facts and the
law and from each and every part of said Decision, Order
and Judgment.


Emmelyn Logan-Baldwin
Attorney for Plaintiff
Office and P.O. Address:
510 Powers Building
Rochester, New York 14614
Telephone: 716-232-2292

March 12, 1976

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Appendix was served on the defendants-appellees by my causing a copy thereof to be mailed to attorneys for defendants-appellees, Niron, Hargrave, Devans & Doyle, John B. McCrory, Esq., of Counsel, Lincoln First Tower, Rochester, New York, 14603 this ^{29th} day of April 1976.



Emmelyn Logan-Baldwin
Attorney for Plaintiff-Appellant
510 Powers Building
Rochester, New York 14614

April 29, 1976